

July 1, 2014

Harry Paul Baer
Teresa M. Baer
922 Oakleigh Beach Road
Baltimore, MD 21222-5011

Re: Baer Property (922 Oakleigh Beach Road)
Critical Area Administrative Variance
Tracking Number 07-14-1831

Dear Mr. and Mrs. Baer:

The Department of Environmental Protection and Sustainability (EPS) has received your after the fact variance request to impact 488 square feet of the Critical Area Buffer for a new garage. Based on County review, all of the work is considered new impacts because the garage was never permitted. The project will be issued a non-compliance penalty in accordance with COMAR 27.01.09-2.H and a Critical Area Buffer Management Plan must be provided that illustrates 4:1 mitigation for non-compliance in addition to the required 3:1 (total of 7:1 mitigation) along with a posted security of guarantee. The property is developed with a house, deck and driveway and approximately half of the property is within the Critical Area Buffer. The property is within a Limited Development Area (LDA).

The Director of EPS may grant a variance to the Chesapeake Bay Critical Area regulations in accordance with regulations adopted by the Critical Area Commission concerning variances as set forth in COMAR 27.01.11. There are five (5) criteria listed in COMAR 27.01.11 that shall be used to evaluate the variance request. All five of the criteria must be met in order to approve the variance.

The first criterion requires that special conditions exist that are peculiar to the land or structure and that literal enforcement of the regulations would result in unwarranted hardship. The property is an existing developed residential property. The property is shaped like a triangle and nearly one half of the property is less than 60-foot wide. The house, deck, and driveway are located on the widest part of the lot. As a result, there is little area remaining to accommodate an accessory structure. Therefore, the first criterion is met.

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. This variance would allow a garage to be located within the Critical Area Buffer. Other properties in the neighborhood have accessory structures located within the

Buffer. A similar variance would be granted to another property owner under similar circumstances. Therefore, this criterion is met.

The third criterion requires that granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area. Granting of this variance will not confer upon the applicant any special privilege that would be denied to other lands or structures within the Critical Area. Locating an accessory structure within the Buffer is not a special privilege. Other property owners in the neighborhood would be given the same opportunity to locate an accessory structure within the Buffer. Therefore, this criterion has been met.

The fourth criterion requires that a variance is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property. This variance is not based upon conditions or circumstances which are the result of actions by the applicant and/or property owners anymore since the violation penalties will be assessed and implemented before approval. Therefore, the fourth criterion has been met.

The fifth criterion requires that granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area regulations. With the mitigation proposed by the applicant and additional substantial buffer plantings, granting of this variance will not adversely affect water quality, or adversely impact fish, wildlife, or plant habitat.

Based upon our review, this Department finds that the first four of the above criteria have been met, and that the fifth criterion can be met by mitigating for impacts as outlined in the conditions. Therefore, the requested variance is hereby approved in accordance with Section 33-2-205 of the Baltimore County Code with the mitigation proposed by the applicant, the following conditions, and the following note added to all future plans:

1. "On July 1, 2014, a variance was granted by Baltimore County Department of Environmental Protection and Sustainability from the Chesapeake Bay Critical Area requirements to impact 488 square feet of buffer for a garage."
2. Mitigation of 3,416 square feet through the planting of native trees and shrubs for buffer impacts shall be provided on a Critical Area Buffer Management Plan (CABMP). A security shall be required for the 3,416 square feet of planting at \$0.25 per square-foot.

Mr. and Mrs. Baer
922 Oakleigh Beach Road
Critical Area Administrative Variance
July 1, 2014
Page 3

3. The Critical Area Buffer shall be recorded as a Critical Area Easement and must be clearly noted on the CABMP. An Exhibit A and corresponding covenants shall be submitted for recordation by August 29, 2014. Critical Area "Do Not Disturb" signs shall be installed at the easement limits. The locations of these signs shall be shown on the CABMP.
4. The CABMP must be provided by August 8, 2014. Once approved, a Mylar copy must then be submitted.
5. Once the above conditions are met, a building permit for the garage must be obtained.

It is the intent of this Department to approve this variance subject to the above conditions. Changes in site layout may require submittal of revised plans and an amended variance request.

Please sign the statement on the following page and then return the signed, original letter to this Department c/o Ms. Patricia M. Farr of Environmental Impact Review. Failure to return a signed copy of this letter may result in delays in processing of permits or other development plans for the subject property, and/or may render this variance null and void.

If you have questions regarding this project, please contact Gris Batchelder at 410-887-3980.

Sincerely,

Vincent J. Gardina
Director

Enclosure

cc: Ms. Julie Roberts, Critical Area Commission

Mr. and Mrs. Baer
922 Oakleigh Beach Road
Critical Area Administrative Variance
July 1, 2014
Page 4

We have read and agree to implement the above requirements to bring our property into compliance with Chesapeake Bay Critical Area regulations.

Signature
Date

Signature

Date

Printed Name
Date

Printed Name
Date